Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Truth-in-Billing	)	CC Docket No. 98-170
	)	
and	)	
	)	
Billing Format	)	

To: The Commission

REPLY COMMENTS OF CENTURYTEL (CENTURY TELEPHONE ENTERPRISES, INC.)

CENTURYTEL

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Summary

In its original comments, CenturyTel urged the Commission to adopt broad guidelines, rather than precise prescriptions, to ensure that the industry produce accurate and understandable bills. CenturyTel expressed concern that specific prescriptions would lead to longer telephone bills, causing consumer confusion and increasing costs. The comments of the majority of parties demonstrate that such concerns are prevalent among service providers and consumers alike.

In terms of bill organization, commenting parties advocating the adoption of specific prescriptions offered divergent and conflicting ideas about the composition of a properly organized bill. Thus, here too, the comments demonstrate the fallacy of adopting precise prescriptions.

The same problems plagued comments recommending mandatory designation of "deniable" and "non-deniable" charges on the monthly telephone bill. There was no consensus as to what method would be the most effective in alerting consumers to the fact that non-payment of certain charges would result in termination of service. CenturyTel and others propose that the termination of service notice is the proper place to notify customers of what charges must be paid to avoid a service cut-off.

Regarding the language used to describe charges resulting from federal regulatory action, CenturyTel joins the comments made by numerous parties in asserting that Commission mandated language would violate the First Amendment. Truthful communications between a carrier and its customers cannot be suppressed by the Commission, and thus the Commission should limit its guidelines to prohibiting false and misleading descriptions.

Finally, CenturyTel joins those commenting parties that urge the Commission to forbear from regulating wireless telephone bills. Because the entire wireless market is regulated by competition, there have not been significant problems concerning wireless bills. Furthermore, cramming and slamming are not problems associated with the wireless industry. Therefore, government regulation of wireless bills would at best accomplish nothing and at worst result in customer confusion and the stifling of innovation.

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CenturyTel, by its attorneys and pursuant to Section 1.415 of the Commission's rules, hereby submits its reply comments in the captioned proceeding. Eighty-two sets of comments were filed in response to the Commission's Notice of Proposed Rulemaking ("Notice")[1] issued on September 17, 1998. The commenting parties included local exchange carriers, interexchange carriers, wireless carriers, billing clearinghouses, regulators, consumer advocates, trade associations and others. Rather than catalog and respond to all comments filed, CenturyTel is responding to selected comments that are representative of certain issues. Therefore, CenturyTel requests that the Commission make no inference from the fact that CenturyTel has not responded to all comments that have been filed.

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[1] *Truth-In-Billing and Billing Format,* Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 98-232 (released Sept. 17, 1998) ("Notice").

I. The Commission Should Adopt Broad Guidelines Rather Than Specific Prescriptions

Like CenturyTel, many of the commenting parties support the adoption of broad guidelines rather than specific prescriptions.[2] These parties generally agreed that specific prescriptions would inevitably result in longer bills, restrict the ability of carriers to adjust their billing formats to meet customer demand, increase costs to consumers, and limit the ability of carriers to include billing format as an element of competition in the marketplace. The Commission should avoid adopting regulations that would result in longer telephone bills, as it is clear from most of the comments filed that, above all else, consumers want shorter bills. Therefore, rather than mandating the contents of each page, the Commission should issue broad guidelines on telephone bill formatting, allowing carriers and their customers to work out the specifics.

Furthermore, as noted by many state commissions, most states have already developed regulations pertaining to many of the issues raised in this Notice.[3] In many instances, billing format and wording are based upon or determined by state attorney general or utility commission

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[2] *See, e.g.,* Airtouch Communications, Inc.; Association for Local Telecommunications Services; AT&T Corp.; BellSouth Corporation; Bell Atlantic; Commonwealth Telephone Co.; Comnet Cellular; Excel Telecommunications, Inc.; Frontier Corporation; Global Telecompetition Consultants, Inc.; GST Telecom Inc.; GTE; Independent Telephone & Telegraph Alliance; National Association of Attorney Generals; Qwest Communications Corporation; Rural Telephone Coalition; Rural Telecommunications Group; SBC Communications; Southern Communications Services, Inc.; Sprint Corporation; United States Telephone Association; US West.

[3] *See, e.g.,* California Public Utilities Commission; Florida Public Service Commission; Minnesota Office of the Attorney General; National Association of Attorneys General; Kansas Corporation Commission; New York State Consumer Protection Board; Pennsylvania Public Utility Commission; Public Service Commission of Wisconsin; Public Utilities Commission of Ohio; Public Utility Commission of Texas; Vermont Public Service Board and Vermont Department of Public Service.

requirements. An additional layer of federal regulation in the form of specific prescriptions would not only increase the cost of compliance, but may conflict with and preempt existing state rules designed to address state-specific issues, thus leaving consumers worse off than if the Commission had not adopted regulations in this area.[4] On the other hand, limiting the regulations to broad guidelines would allow state and federal officials to work together, as envisioned by the Telecommunications Act, to tailor solutions specific to the identified problems.

II. Organization of the Bill

Parties in support of specific prescriptions focused on the necessity of directed solutions, but each proposed different requirements and offered ideas that often contradicted each other. The fact that all views are divergent, and often conflicting, demonstrates the fallacy of adopting specific prescriptions. For instance, in regard to the Commission's proposal to segregate services according to type; while many commenting parties agreed with the proposal, there were a number of divergent ideas concerning the details. There was no consensus as to whether the services should appear in separate sections or on separate pages or what the titles should be for the different categories. While it is impractical to list all the varying suggestions, it is clear that there is no consensus as to how to

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[4] Moreover, a number of parties have called into question whether the Commission has jurisdiction to regulate bills for intrastate charges and thus believe the Commission may be exceeding its jurisdiction in this proceeding. *See, e.g.,* Comments of Global Telecompetition Consultants, Inc., at 3-4; Comments of the Minnesota Office of Attorney General, at 3-4; Comments of the Missouri Public Utility Commission, at 2; Comments of the National Association of State Utility Consumer Advocates, at 11-12; Comments of the New York State Consumer Board, at 7, 7 n.3; Comments of Pennsylvania Public Utility Commission, at 5; Comments of the Public Utility Commission of Ohio, at 4; Comments of SBC Communications, Inc., at 3; Comments of Time Warner Telecom, Inc., at 5-9.

properly organize a bill.[5] It would be a mistake for the Commission to exercise its judgment and pick what it believes to be the best solution, thereby preventing the marketplace from deciding by permitting telecommunications providers to tailor their billing formats in response to consumer demand.

As set out in its opening statements, CenturyTel already has bills that show services provided by toll carriers on separate pages.[6] While CenturyTel agrees that presenting details regarding charges for different services in this manner makes it easier for its customers, the larger point is that the Commission should not substitute its judgment for the judgment of carriers responding to the needs of their customers. The adoption of broad guidelines rather than specific prescriptions by the Commission would allow CenturyTel to continue to respond to the needs of its customers and

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[5] *See, e.g.*, Comments of the Federal Trade Commission, at 9, 9 n.17 (agreeing with segregation but proposing the label of "telephone-billed purchases" rather than "miscellaneous"); Comments of the Minnesota Office of the Attorney General, at 8 (suggesting segregation according to usage, monthly service charges and taxes); Comments of the National Association of State Utility Consumer Advocates, at 2, 13 (recommending the use of symbols to denote local and long distance charges); Comments of the Public Service Commission of West Virginia, at 2 (advocating four categories, each with a different label than both the Commission's and other proposals); Comments of the Public Utility Commission of Ohio, at 6 (proposing additional categories of regulated and non-regulated services); Comments of the Public Utility Commission of Texas, at 5 (disagreeing with both the number of categories and the labels, proposing "optional" and "mandatory" in place of "miscellaneous"); Comments of Quality Communications, Inc., at 2 (providing for coding to identify different services and inclusion of an index on the remittance portion of the telephone bill); Comments of the Texas Office of Public Utility Counsel, at 4 (offering the label of "Optional Charges/Services" instead of "miscellaneous"); Comments of the Washington Utilities and Transportation Commission Staff, at 1, 3 (determining that charges should fall into four categories, all with labels different than the Commission).

[6] *See* Comments of CenturyTel, at 3.

integrate new innovations as they become available, both in terms of service offerings and billing format options.

Regarding the Commission's proposal of requiring a status page or section and a summary page or section, again, each commenting party had a unique view as to what format would provide consumers with the most benefits. Parties disagreed on the method to indicate service changes and what information should appear on various pages.[7] Once again, it would be inappropriate for the Commission to determine which system of billing is superior, as each commenting party addressed specific needs to solve problems thought important by that party. General guidelines avoid mandating one format above all others, thus allowing the market to determine which format is the best and enabling carriers to respond to the unique needs of their customers. In reality, competition will either mandate conformity among the numerous providers, or demand clarity from all carriers that the Commission could never achieve through regulation. Broad guidelines allow different carriers to experiment with different methods, thus allowing consumers to choose the best format to meet their needs. Broad guidelines also allow the Commission to address the legitimate concerns of various consumer groups and state commissions without undermining the competitive process.

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[7] *See, e.g.,* Comments of the Bills Projects, at 3 (recommending a separate "new services box"); Comments of the Federal Trade Commission, at 10 (suggesting the use of colored paper for the status page); Comments of the Florida Public Service Commission, at 6 (urging the Commission to include usage charges, monthly service fees and taxes, with each item separately listed); Comments of the Minnesota Office of Attorney General, at 8-9 (locating this portion of the bill as the place to notify consumers of when service can be terminated); Comments of the Missouri Public Service Commission, at 3 (advocating that a section of the summary page should be devoted to new services); Comments of the Public Utility Commission of Texas, at 6 (arguing the use of a separate page with a title for the status page); Comments of the Texas Office of Public Utility counsel, at 4 (recommending a "flag" or other symbol to indicate a change in service).

Additionally, mandating a status section or page and a summary section or page does not necessarily solve the problems of cramming and slamming. A status section or a summary section would simply be providing consumers with information located elsewhere in the bill and thus would make the bill lengthier and more confronting to read, thereby increasing consumer confusion. So long as the bill conspicuously shows who the service providers are, the Commission should allow carriers the flexibility to provide the information to consumers in the way they believe is comprehensible and effective. For example, CenturyTel clearly identifies the name of the carrier in the section dealing with that carrier's charges. Such identification ought to be sufficient.

III. Listing Charges as Deniable And Non-Deniable Charges

The parties were divided as to whether the Commission should mandate identifying "deniable" and "non-deniable" charges on the telephone bill. Several of the commenting parties, as well as the Commission, pointed to the fact that sometimes customers are pressured by unscrupulous service providers into paying questionable charges because they fear losing the provision of local service.[8] However, there was no consensus as to what method to implement in

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[8] *See* Notice at ¶ 24. *See, e.g.,* Comments of the Public Service Commission of West Virginia, at 2 (suggesting that local exchange carriers not be allowed to disconnect for non-payment of charges, unless the charges are for their services specifically); Comments of the Public Service Commission of Wisconsin, at 4 (finding that the use of denial of local service as a collection tool for all charges is inappropriate); Comments of the Public Utilities Commission of Ohio, at 9-10 (stating its concern for consumers paying "non-deniable" charges because they fear disconnection); Comments of Texas Citizen Action, at 5-6 (noting that fear of disconnection is used to pressure local service customers to pay "non-deniable" charges).

order to alert consumers to the fact that the non-payment of certain charges will not result in the termination of service.[9]

Many commenting parties disagreed with detailing in each statement whether charges are "deniable" or "non-deniable", as they were concerned that it invites nonpayment of the charges designated as "non-deniable".[10] In addition, there is only so much information that can be included in a monthly statement without increasing customer confusion, and a customer paying the bill on a timely basis is not going to focus on whether a charge is "deniable" or "non-deniable". Instead, as discussed in its opening comments, CenturyTel proposes that the termination of service notice inform the customers as to which specific charges must be paid in order to continue service. CenturyTel submits that the termination of service notice is the proper place to inform customers as

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[9] *See, e.g.,* Comments of the Federal Trade Commission, at 15-16 (expressing support for the idea of differentiation, but no comment on the method); Comments of GST Telecom Inc., at 22-23 (pointing to the problem of determining what charges result in termination among the several states); Comments of MediaOne, at 1-3 (noting that proposal would heighten customer confusion); Comments of the National Association of State Utility Consumer Advocates, at 3, 16 (suggesting a disclosure statement explaining the rights of consumers); Comments of the Public Service Commission of Wisconsin, at 4 (emphasizing that more detail is needed than simply labeling charges deniable or non-deniable); Comments of the Public Utility Commission of Texas, at 8 (quoting a customer saying such designations may "open up another can of worms"); Comments of Texas Citizen Action, at 5-6 (supporting a "non-deniable" disclosure statement); Comments of the Utility Consumers' Action Network, at 2, 9 (advocating that the Commission not adopt such labels).

[10] *See, e.g.,* Comments of Bell Atlantic, at 9 (emphasizing that such a label suggests that it is alright not to pay such charges); Comments of Commonwealth Telephone Company, at 4-5 (highlighting the fact that such a designation encourages non-payment); Comments of CenturyTel, at 6-7 (designating charges in this manner invites nonpayment); Comments of the Kansas Corporation Commission, at 5 (arguing that it may lead to non-payment of non-deniable charges); Comments of the Northwestern Indiana Telephone, Inc., at 4 (providing such a distinction leads to non-payment); Comments of Time Warner Telecom, Inc., at 14 (stating that such labels invite non-payment).

to which charges are "deniable", because the customer needs to accurately know what he or she must do to avoid a service cut-off when termination is imminent. Moreover, by placing the information in the termination notice, the threat of termination cannot be abused to make a customer pay a "non-deniable" charge.

IV. Description of Charges Resulting From Federal Regulatory Action

There were many different views regarding the Commission's proposals concerning both the charges resulting from regulatory action and the explanation of such charges. While some commenting parties believed that combining all regulatory fees into one charge, separate from the charges associated with basic service, would be the most helpful, others thought the Commission should prohibit carriers from separating out any fees resulting from regulatory action. Some commenting parties identified the problem not as the way in which charges were presented on the bills, but with the fact that surcharges and other fees are not included in the advertised rates.[11]

The Commission should not prescribe the particular manner in which carriers present fees resulting from regulatory action to their customers. Carriers should have the freedom to respond to consumer demand and market place forces in determining whether to include these charges as part of their rates, to bundle the charges as one line item or to list the charges in separate line items. There is nothing misleading when a carrier advertises a rate and then adds to the bill charges resulting from regulatory action, provided that the charges are shown on the bill, just as there is

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[11] *Compare, e.g*, Comments of the California Public Utilities Commission, at 7-8 (recommending one charge for all regulatory fees), *with* Comments of the Minnesota Office of the Attorney General, at 11-12 (advising the Commission to prohibit the itemization of regulatory fees). *See, e.g.,* Comments of Federal Trade Commission, at 17-18 (arguing that advertised prices should reflect total charges billed); Maine Public Utilities Commission, at 7-8 (suggesting that line-item surcharges are inherently misleading).

nothing misleading when a department store advertises a product at a particular price and adds on sales tax or shipping charges to the sales slip.

A number of parties supported standardized language to describe fees associated with regulatory action, but commentators within the group did not agree on the method to achieve this result. For example, some suggested that the Commission should require carriers to maintain a comprehensive list, along with a "plain language" description of all such fees, that would be available to customers upon request. Others thought that the Commission should adopt standard language and have carriers provide it to customers the first time the charges appeared.[12]

Regarding the adoption of such language, many commenting parties expressed concern that the Commission is proposing to regulate the content of their speech. While agreeing that deceptive or misleading speech is not protected, numerous parties argued that the First Amendment prohibited the Commission from regulating truthful communications between a carrier and its customers. Furthermore, given the policy debate that has influenced both the collection and distribution of the universal service fund, Commission mandated language is most certainly unconstitutional, as it

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[12] *Compare, e.g.*, Comments of Quality Communications, Inc., at 4-5, *with* Comments of the Public Utility Commission of Ohio, at 8-9.

promotes one political viewpoint, while silencing all others.[13] CenturyTel agrees that mandated language would be in violation of the First Amendment.

Moreover, the Commission should note the technical limitations of billing software when considering proposals for the inclusion of specific language on telephone bills. As noted in CenturyTel's opening comments, its telephone bills are limited to 24 characters in the descriptions it can print, although its billing software is currently being upgraded to permit 36 characters.[14] Therefore, any description attempting to explain, in "plain language", universal service and access charges as part of a billing line item is almost certain not to fit within those character limitations and a different solution would be required.[15]

Parties were split as to whether the Commission should adopt safe harbor language. Commenting parties in support had differing opinions as to how the Commission should implement the proposal. Some agreed with the concept, but wanted to aid in the development of the text.

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[13] *See, e.g.,* Comments of Airtouch Communications, Inc., at 8-10 (emphasizing that common carriers can neither be compelled to speak, nor speak a particular message); Comments of the Cellular Telecommunications Industry Association, at 9-11 (rejecting the ability of the Commission to regulate truthful communication as unconstitutional); Comments of PrimeCo Personal Communications, L.P., at 13-14 (highlighting the fact that reasonable people disagree as to the scope and purpose of the universal service program); Comments of Omnipoint Communications, Inc., at 13 (supporting Commission adoption of disclosure principles, but anything more implicates Constitutional issues); Comments of the Personal Communications Industry Association, at 13-15 (mandating language concerning a public policy issue, like the universal service fund, is unconstitutional); Comments of Rural Cellular Association, at 6 (arguing that carriers are not government agents and should not be responsible for explaining government programs).

[14] *See* Comments of CenturyTel, at 8.

[15] *See* Comments of Quality Communications Corporation, at 6 (noting the character limitations of LEC billing software).

Others thought that the issuance of safe harbor language would be helpful, but that it should not include a description of the savings experienced by long distance customers as a result of reductions in access charges. Some thought that safe harbor language should become mandatory language, while others believed that carriers should continue to have flexibility in the description of fees.[16]

As explained in its opening comments, CenturyTel would oppose any "safe harbor" or other language adopted by the FCC. The problem with "safe harbor" language is that it could tend to be viewed as the language that must be used absent compelling circumstances, and carriers would not have the flexibility to develop their own language. Given the First Amendment constitutional problems, the Commission ought not adopt any regulations mandating or encouraging any particular language. Rather, the Commission should simply prohibit misleading or deceptive language, and can utilize its enforcement powers accordingly.

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[16] *See, e.g.*, Comments of the Education and Library Networks Coalition, at 2 (providing six principles to utilize in the development of safe harbor language); Comments of the Kansas Corporation Commission, at 6 (stating it supports idea but has not developed language yet); Comments of the National Consumer League, at 7-8 (supporting the idea of safe harbor language but suggesting that it be developed through a collaborative process); Comments of the National Association of State Utility Advocates, at 14-15 (recommending that the Commission proscribe safe harbor language with the burden shifting to carriers that do not use it); Comments of the New York Department of Public Service, at 2 (stating that safe harbor language should be developed thorough industry consensus or a collaborative process, but not through Commission mandate); Comments of the New York State Consumer Board, at 13 (developing safe harbor language would be helpful, but Commission should not mandate specific language); Comments of the Pennsylvania Public Utilities Commission, at 8-9 (arguing that such language should not include information concerning how much money long distance providers have saved consumers); Comments of the Washington Utilities and Transportation Commission, at 6-7 (preferring mandatory language to safe harbor language); Comments of the Wyoming Public Service Commission, at 2-3 (advocating a description of regulatory fees that discloses the social programs such fees support).

V. The Commission Should Forbear From Regulating Wireless Telephone Bills

Numerous parties submitted comments supporting the idea that the Commission should not regulate wireless telephone bills because the nature of both the market and the service are such that the various billing problems discussed in the Notice are specific to the wireline market. Consumers have not been complaining about wireless telephone billing formats. Considering the old saying, "if it's not broke, don't fix it", there is no question that Government regulation of wireless telephone bills would at best accomplish nothing and at worst confuse customers and hamper innovation.[17]

The primary policy reason behind the Commission's issuance of the Notice is to curb the growth of telecommunications fraud, particularly slamming and cramming.[18] However, neither slamming nor cramming are problems with the wireless industry. Slamming, the unauthorized change of a subscriber's selected carrier for telephone exchange service or telephone toll service, is generally not associated with the provision of wireless service. Wireline telephone service is vulnerable to slamming because of the presubscription process for selecting an interexchange carrier. There is no equivalent to this process associated with the provision of wireless service. In order to change carriers in the wireless market, the customer must either buy a new phone or reprogram its

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[17] Comments of the Rural Telecommunications Group; Comments of the Rural Cellular Association; Comments of Southern Communications Services, Inc.; Comments of Airtouch Communications Inc.; Comments of Comnet Cellular; Comments of Bell Atlantic Mobile; Comments of Nextel Communications; Comments of Primeco Personal Communications, L.P.; Comments of the Cellular Telecom Industry Association; Comments of the Personal Communications Industry Association; Comments of Liberty Cellular, Inc.; Comments of Omnipoint Communications, Inc.; Comments of United States Cellular Corporation.

[18] *See* Notice ¶¶ 3, 16, 19, 23.

current phone. In either instance, the customer must engage in affirmative conduct and therefore is cognizant of the carrier providing service.[19]

Another reason for the lack of slamming in the wireless industry is due to the fact that there is no "equal access" obligation imposed on wireless carriers. Customers change their long distance carriers by changing their wireless carriers. It is telling that the Notice does not detail any evidence of wireless consumers complaining of such conduct, nor are companies engaged in the provision of wireless telecommunications services aware of customer complaints concerning such practices.[20]

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[19] *See, e.g.,* Comments of United States Cellular Corporation, at 6 (detailing this process).

[20] *See, e.g.,* Comments of AirTouch Communications, Inc., at 6, n.16 (noting that both Houses of Congress recognized that the number of slamming complaints in the wireless industry have been negligible); Comments of BellSouth Corporation, at 11 (reasoning that the impetus for the Notice does not apply to CMRS); Comments of Bell Atlantic Mobile, at 7 (emphasizing that slamming and cramming cannot occur in the provision of wireless service); Comments of the Cellular Telecommunications Industry Association, at 4 (detailing the process that consumers must undergo in order to switch providers, unlike wireline service); Comments of Nextel Communications, Inc., at 8-9, 9 n.6 (highlighting the fact that there is no pre-subscription process in the wireless industry thus no slamming); Comments of Omnipoint Communications, Inc., at 5 (accentuating the fact that wireless providers do not have to provide "equal access" to long distance providers); Comments of PrimeCo Personal Communications, L.P., at 5, 5 n.14 (pointing out that there is no history of slamming or cramming in the wireless industry); Comments of the Rural Cellular Association, at 3 (stating that the low level of consumer complaints evidences limited instances of fraudulent practices); Comments of the United States Cellular Corporation, at 6 (explaining that slamming is not a problem in wireless context because cellular providers do not have to provide "equal access" to long distance carriers under § 332(c)(8)).

In short, slamming is not a problem for wireless consumers, a fact recognized by this Commission, in a separate docket,[21] and by both houses of Congress.[22]

Cramming, the unauthorized charge for non-telecommunications related services, is also not associated with the wireless market. One reason for this is that the majority of wireless service providers do not bill for non-telecommunications services provided by third-parties.[23] Also, there is no incentive for wireless service providers to engage in cramming because the market is highly competitive. Consumers can easily switch carriers if they are unsatisfied with any component of the service they receive.[24] As a result of competition, wireless carriers work to provide consumers with the lowest possible bill. As was Congress' intent when it rewrote Section 332 of the

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[21] *See* Comments of Bell Atlantic Mobile, at 7, 7 n.11; Comments of Primeco Personal Communications, L.P., at 5, 5 n.14.

[22] *See* Comments of AirTouch Communications, Inc., at 6, 6 n.16; Comments of BellSouth Corporation, at 11, 11 n.19; Comments of PrimeCo Personal Communications, L.P., at 5, 5 n.15.

[23] *See, e.g.,* Comments of AirTouch Communications, Inc., at 2 (stating that third-party providers of non-telecommunications services do not bill thorough wireless providers for the most part); Comments of Nextel Communications, Inc., at 2 (explaining that wireless carriers do not typically bill for third-party non-telecommunications services); Comments of the Personal Communications Industry Association, at 7 (highlighting the fact that wireless carriers generally do not provide billing services for third-parties providing non-telecommunications services); Comments of PrimeCo Personal Communications, L.P., at 5 (emphasizing that there is no history of cramming in the wireless industry); Comments of Southern Communications Services, at 3 (noting that it does not bill for services of any other service provider of non-telecommunications services).

[24] *See, e.g.,* Comments of Cellular Telecommunications Industry Association, at 6 (explaining that since demand is elastic, a higher bill drives away customers no matter what the source); Comments of Omnipoint Communications, Inc., at 8 (stating that the ability of consumers to switch service providers ensures fair treatment); Comments of Southern Communications, Inc., at 2-3 (pointing out that competition regulates wireless bills); Comments of the United States Cellular Corporation, at 9 (emphasizing that competition and the ability to change carriers regulates the wireless market).

Communications Act of 1934, as amended (the "Act"), competition already regulates the billing practices and all other elements of wireless telephone service.[25]

Moreover, many of the Commission's proposals simply do not apply to wireless services and risk causing massive consumer confusion. In regard to bill organization, identifying all underlying service providers would cause confusion rather than assist wireless consumers. For example, as set out in CenturyTel's opening comments, when a customer is roaming, providing information concerning the underlying carrier is not helpful to the customer because the serving carrier does not bill the customer.[26] If the customer is concerned about any element of the bill, the proper party to call is the home carrier, as the home carrier is responsible for investigating and resolving customer inquiries.[27]

Another example concern's the Commission's proposal to list services organized by service provider. Elements of the same call, such as airtime and landline charges, are often provided by

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[25] *See, e.g.*, Comments of Bell Atlantic Mobile, at 3-5 (explaining Congress' intent and the Commission's role in creating a competitive wireless market); Comments of Nextel Communications, Inc., at 3 (suggesting that the Commission should allow competition, coupled with its enforcement power, to regulate the wireless market); Comments of Omnipoint Communications, Inc., at 5-7 (detailing two FCC decisions that suggest the Commission should not regulate wireless telephone bills); Comments of PrimeCo Personal Communications, L.P., at 3, 3 n.8 (stating that regulating wireless billing practices contravenes the Commission's de-regulatory approach to wireless services).

[26] *See* Comments of CenturyTel, at 5.

[27] *See, e.g.*, Comments of AirTouch Communications, Inc., at 7 (stating that the wireless carrier should be only entity listed as it resolves billing problems); Comments of Bell Atlantic Mobile, Inc., at 12-13 (identifying underlying carriers in roaming situations in nonsensical); Comments of PrimeCo Personal Communications, L.P., at 9 (rejecting the Commission's proposals of identifying underlying carriers in the roaming situation and the idea of providing more than one entity's contact information).

different providers. To list them in separate sections of the bill would result in elements of the same call appearing in different parts of the bill, resulting in customer confusion. In addition, for the reasons discussed in the prior paragraph, there is no reason to list roaming charges by provider. A chronological listing of roamer calls is much easier for the customer to review, and results in less confusion. In other words, organizing the bill into small groupings may not be the easiest and most comprehensive way to present information to wireless service consumers, and does nothing to address the problems of slamming and cramming, as neither problem is prevalent in the wireless industry.[28]

The Commission's proposal recommending that carriers identify "deniable" and "non-deniable" charges is also not applicable to wireless carriers. Since wireless services are not tariffed, the question of whether a charge is "deniable" or not depends on the service contract with the customer. As such, if the contract provides for termination of service after notice unless all delinquent charges are paid, then the customer must pay the past due balance to continue service. The Notice and several of the commenting parties point to the fact that sometimes customers are pressured, by unscrupulous service providers, into paying questionable charges because they fear

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[28] *See, e.g.,* Comments of Nextel Communications, Inc., at 13 (emphasizing that requiring wireless carriers to separately list every charge and its basis could result in outrageous complexities); Comments of Omnipoint Communications, Inc., at 3 (explaining that the Commission's proposals do not accurately account for regulatory and market distinctions between traditional land line service and wireless service); Comments of the Rural Cellular Association, at 4-5 (highlighting the fact that the elements of wireless bills are already clearly provided and the proposals will not serve the purpose of limiting slamming and cramming); Comments of Southern Communications, Inc., at 3 (requiring carriers to list charges by service providers is irrelevant in an SMR context).

losing the provision of local service.[29] However, such fear is not present in the provision of wireless service, because a customer could simply cancel service with the provider demanding payment and order service from another carrier. Even if a customer cannot subscribe to service from any carrier because it is delinquent in its payments all around, if the customer really wants wireless service, it can buy prepaid service. Therefore, the reason for the proposed regulation does not apply to wireless providers.[30]

Section 10 of the Act requires the Commission to forbear from applying any regulation in instances where the regulation is unnecessary to ensure reasonable charges, practices, classifications, or regulations, is unnecessary to protect consumers, and where forbearance would be consistent with the public interest. Specifically, Section 10 provides in pertinent part:

> (a) REGULATORY FLEXIBILITY.–Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that –
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> > (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in

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[29] *See* Notice, at ¶ 24. *See, e.g.,* Comments of the Public Service Commission of West Virginia, at 2 (suggesting that local exchange carriers not be allowed to disconnect for non-payment of charges, unless the charges are for their services specifically); Comments of the Public Service Commission of Wisconsin, at 4 (finding that the use of denial of local service as a collection tool for all charges is inappropriate); Comments of Texas Citizen Action, at 5-6 (noting that fear of disconnection is used to get local service customers to pay "non-deniable" charges).

[30] *See, e.g.,* Comments of Bell Atlantic Mobile, at 13 (stating that forcing wireless carriers to label charges as "deniable" and "non-deniable" would be unlawful); Comments of the United States Cellular Corporation, at 6-7 (emphasizing that in most cases, all charges are "deniable" on wireless bills).

> connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly discriminatory;
>
> (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
>
> (3) forbearance from applying such provision or regulation is consistent with the public interest.
>
> (b) COMPETITIVE EFFECT TO BE WEIGHED.-In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

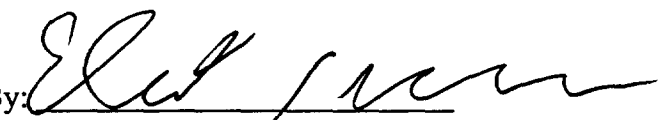
47 U.S.C. §160. CenturyTel and other commenting parties have already explained that the high degree of competition in the wireless telecommunications marketplace makes any regulation regarding wireless billing unnecessary to ensure reasonable and non-discriminatory charges, practices, classifications, and regulations and unnecessary to ensure the protection of consumers, because the dearth of consumer complaints demonstrates that the bills are already responsive to consumer needs. Moreover, forbearance from regulation of wireless telecommunications billing is consistent with the public interest because it will promote competition. Specifically, if the Commission forbears from regulating wireless bills, wireless companies will be free to continue to innovate and redesign their bills in response to consumer demand without the constraint of Commission regulations. The high degree of wireless competition provides a strong incentive for each carrier to be responsive to their customers.

VI. Conclusion

In conclusion, CenturyTel urges the Commission to issue broad guidelines rather than specific prescriptions regarding billing for wireline telephone service and forbear from regulating billing for wireless telecommunications services.

Respectfully submitted,

CENTURYTEL

By: 
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